

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

DOUGLAS ANDREW BAIETT,

Plaintiff,

v.

Civ. No. 16-467 GJF

NANCY A. BERRYHILL, *Acting
Commissioner of the Social Security
Administration,*

Defendant.

ORDER GRANTING ATTORNEY FEES

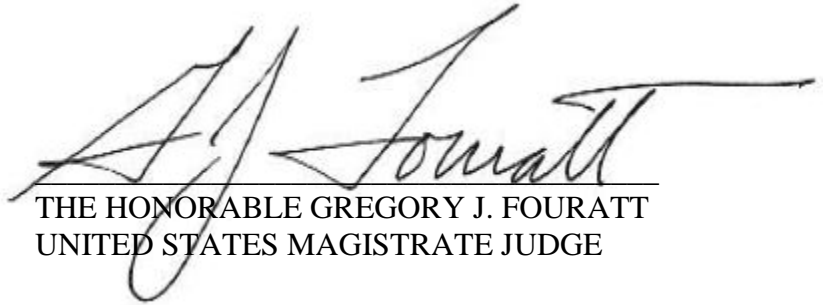
This matter is before the Court on Defendant's "Amended Stipulation for Award of Attorney Fees Under the Equal Access to Justice Act" [ECF No. 27]. Having considered the record, relevant law, and the stipulations of the parties, **IT IS HEREBY ORDERED:**

1. Defendant will pay Plaintiff a total of \$5,100.00 in fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412 *et seq.* This amount is payable to Plaintiff, not directly to his counsel. *See Astrue v. Ratliff*, 560 U.S. 586, 591-93 (2010). Additionally, Plaintiff is awarded \$450.00 in costs to be paid from the Judgment Fund. *See* 28 U.S.C. §§ 2412(c)(1), 2444. Plaintiff's payment will be remitted to the office of his attorney, Barbara Jarvis.

2. Defendant's payment of this amount is without prejudice to Plaintiff's counsel's right to seek attorney fees under section 406(b) of the Social Security Act, 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA.

3. If Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED.



THE HONORABLE GREGORY J. FOURATT
UNITED STATES MAGISTRATE JUDGE